



*Berard goes on power play Scammed ex-NHL star fighting back*

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**Body**

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NO ONE PUTS Bryan Berard in a corner.

When the former NHL All-Star defenseman and No. 1 draft pick, best known for returning to the Rangers after losing his eye in a grisly on-ice accident in 2000, left the NHL in 2008, he never expected to spend his days pouring through financial documents, emails and texts, and meeting with law enforcement officials and civil attorneys across the country.

His mission: to recover the millions he invested with an unlicensed financial investor who bills himself as a "lifestyle coach" and a convicted cocaine dealer who reinvented himself as a race car driver.

Now Berard is speaking to law enforcement investigators trying to unravel bank transfers and payments centering around a web of investments that may have extracted up to \$100 million from Berard and other investors, among them more than a dozen current and former NHL players.

The latest discoveries come four years after the Daily News began reporting on what is believed to be one of the most extensive frauds ever perpetrated on professional athletes. While the affair underscores a broader problem of wealthy pro athletes stripped penniless by poor investment decisions and swarming advisers, the NHL case also belongs in its own category given its cinematic cast of characters and convoluted plot.

Much of the money remains unaccounted for, and the government's scrutiny is especially intense for the colorful duo whom the feds have set their sights on: Phil Kenner and his auto-racing pal Tommy Constantine. Where the money went could affect who has equity in a world-class new golf resort in Mexico.

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Neither Kenner nor Constantine could be reached for comment on this story.

"Many of the players are either broke or don't want to spend any more money on legal fees or time trying to figure out where the money is and how it was taken, which is unfortunate but understandable," says Berard, whose arms are sleeved in tattoos and who speaks calmly in the accent of his hometown of Woonsocket, R.I.

The other players affected include former Islander Michael Peca, former Ranger Mattias Norstrom, Jere Lehtinen of the Dallas Stars and NHL journeymen Glen Murray and Jozef Stumpel. One of the bigger investors was five-time All Star and Stanley Cup winner Sergei Gonchar of the Dallas Stars. "Some of the players still don't even realize their money is gone," Berard says. "But nothing is going to stop me from continuing to get the documentation and information showing these two guys that they just can't take my money and get away with it. This was my retirement money, my nest egg."

The former Ranger and Islander star has spent the last two-and-a-half years providing law enforcement officials with documents and evidence that he hopes will lead to charges against the two Arizona men who Berard says scammed him and the other players. He has joined forces with a retired Long Island policeman and investor named John Kaiser, who was also an alleged victim of the Kenner and Constantine schemes.

Berard says he began paying close attention to his investments after spending one last season playing pro hockey in Russia before retiring and turning his attention to his financial affairs.

"That's when I really started to pay attention to the money I was spending and where it was going," Berard says. "I saw the equity he had in the deals. There was a small share for the players and more for him - and that wasn't the half of it."

At 36, Berard already has the kind of life story of which movies are made. He was born in 1977 in Woonsocket, a mill town with a lot of French-Canadian heritage. His father was a mechanic and his mother raised six kids. Berard attended hockey powerhouse Mount Saint Charles Academy before leaving, at 17, to play in the elite junior hockey leagues of Ontario.

By 1994 it was clear that Berard was one of North America's top pro hockey prospects; it was then that he was approached by Phil Kenner, a young financial planner at State Street Bank in Boston. Kenner was working with Boston Bruins legend Derek Sanderson, who then managed money for pro athletes at the bank. Kenner was encouraging hockey prospects to invest with him, and Berard signed on.

"He came to my house," Berard says. "My family welcomed him."

The following year the Ottawa Senators took Berard first overall in the 1995 entry draft, making him only the third American-born player to be the first pick. But he demanded a trade and the Senators dealt him to the Islanders. Berard thrived in his first year of pro hockey in 1996-97, winning the Calder Trophy at age 19. He was with the Islanders until 1999, when he was traded to the Toronto Maple Leafs. His career was soaring until the second period in a game in Ottawa on March 11, 2000. Berard was patrolling in front of the Leafs' net while they led the Senators 3-1 when Marian Hossa swung his stick at just the right angle and force that it came up and smashed into the upper right side of Berard's face, crushing bones and all but destroying Berard's right eye.

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Grainy videos of the accident uploaded to YouTube years later show Berard face down, kicking his skates in pain while a pool of dark blood broadens on the ice. Despite a long series of operations by renowned surgeons, including New York specialist Stanley Chang, Berard lost vision in the eye. He collected a \$6.5 million insurance payout for what looked like a career-ending injury, but in 2001 Berard decided to attempt a comeback, which required him to begin returning the insurance money on a payment plan. He signed with the Rangers on Sept. 12, 2001. In subsequent years he skated for the Bruins, Chicago Blackhawks and Columbus Blue Jackets.

He had made millions and spent freely throughout his career, always feeling secure about his future because of the roughly \$3 million he had entrusted to Kenner. The investments, Berard believed, gave him a stake in real estate projects in Hawaii and Mexico, including a golf course development in Cabo San Lucas named Diamante that remains at the center of the fraud controversy, as well as a stake in a pre-paid credit card company that Kenner and Constantine were running in Arizona called Eufora. Berard estimates he lost all \$3 million, citing worthless real estate deals and bad investments in a tech startup and a video game company. "I never made any money from any of it," Berard says.

Sometime in 2003 or 2004, Kenner introduced Berard and the other hockey players to Constantine and told them that Constantine was a wildly successful entrepreneur whose racing career was sponsored by Playboy. Kenner also told them that Eufora, a pre-paid credit card company controlled by Constantine, was a great investment and that his partner was making millions from the business. Berard has since poured through Constantine's bankruptcy petition and discovered court records that show Constantine was begging Kenner for money as early as 2008, texting in one session included in court documents, "Honestly right now I just need to be able to eat and buy gas." And, "Yeah I am so broke I couldnt (sic) laid in a russian whorehouse on Rubel (sic) night."

In January 2011, when Berard and Kaiser met in Kaiser's home office on Long Island and began examining documents related to the deals, particularly the Diamante development in Cabo, it became clear that Kenner had much more equity in the projects than any of the players, who by that point had become embroiled in a series of lawsuits between the players and Kenner and Constantine that have clogged courts in Arizona, Nevada and California for the last five years. Kaiser also discovered his signature had been forged on at least one document.

The players had poured an estimated \$8 million into the Cabo project, which was spearheaded by Ken Jowdy, a former partner of Kenner's who split with him in 2007 and has fought Kenner's attempts to take over Diamante. In 2009 Kenner had convinced some of the players to sue Jowdy, accusing him of spending \$25 million of the players' money on strippers, porn stars and wild parties attended by Jowdy and his pals, including Roger Clemens and Joe Morgan. Jowdy has fought to dispel those claims, suing Kenner for defamation and telling The News that he often feared for his life as he battled to turn Diamante, which opened to rave reviews in 2010, into one of the highest-rated new golf courses in the world. (Tiger Woods recently signed on to design a second 18 at Diamante, which is scheduled to open next year.) Kenner's suit against Jowdy was withdrawn in 2010.

As their scheme began to unwind, Kenner and Constantine traversed North America raising money from the players in a desperate attempt to oust Jowdy and prop up other failing ventures Kenner and Constantine controlled, persuading some of the players to contribute \$250,000 each to what Kenner and Constantine called a "Global Settlement Fund," ostensibly to wage their legal battle against Jowdy. They deposited the money from the "GSF" into the account of their attorney, Ron Richards, then spent it on a

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bankrupt airport, a condo development in foreclosure and a worthless bankcard company, according to court documents viewed by The News. The money also went for payment to the men's attorneys, a public relations firm and expert witnesses in a lawsuit against Kenner, according to court records reviewed by Berard and Kaiser. Together, Berard and Kaiser investigated Kenner's schemes, poring through statements, calling other investors, visiting the sites of the real estate the NHL players had supposedly bought and trying to uncover Kenner's shell game. "We started digging deep, going through emails," Berard says. "I wanted to find out where the money went."

Before long, Berard and Kaiser were meeting with law enforcement investigators and telling their story. Meanwhile, Berard hopes the investigation is nearing an end. He has been spending time in Cabo working with the sales company that markets the beach front villas at Diamante. With a smile he describes a new job working with another investment firm, Whalerock Point LLC in Providence, R.I., where he is director of sports and entertainment.

He is a walking example of what can happen to a professional athlete and his money. He says he warns them of the sharks that circle them and tells them "to be careful who they trust."

"I've dealt with much tougher and smarter guys than either Kenner or Constantine," Berard says. "And I believe in our justice system and think the investigators looking at this are committed and professional."

"At Whalerock I work with people who have MBAs and law degrees and who are Ivy League- educated investment managers. Any professional athlete or entertainer has to be careful. As hard as they work at becoming successful, there are people out there working just as hard to con them out of their money."

## Graphic

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Former NHL star Bryan Berard, who found way to recover from debilitating eye injury (l.) in 2000, is striving for another comeback, this time working to recover money he and other players claim they lost in scam involving racing owner Tommy Constantine (above). Bryan Smith/Daily News/Reuters/Getty

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